

STATE OF FLORIDA

Commissioners:  
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LILA A. JABER

DIVISION OF POLICY ANALYSIS &  
INTERGOVERNMENTAL LIAISON  
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PUBLIC SERVICE COMMISSION

August 4, 2000

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Federal Communications Commission  
Office of Secretary

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VIA ELECTRONIC FILING

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW - TW-A325  
Washington, DC 20554

Re: CC Docket No. 96-45, Federal-State Joint Board on Universal Service;  
Promoting Deployment and Subscribership in Unserved and Underserved  
Areas, Including Tribal and Insular Areas

Dear Ms. Salas:

Forwarded herewith are Comments of the Florida Public Service Commission in the  
above-noted docket.

Sincerely,

/s/

Cynthia B. Miller, Esquire  
Bureau of Intergovernmental Liaison

CBM:tf

Attachment

cc: Brad Ramsay, National Association of Regulatory Utility Commissioners

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Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matters of	)	
	)	
Federal-State Joint Board on	)	
Universal Service; Promoting Deployment	)	
and Subscribership in Unserved	)	
and Underserved Areas, Including	)	
Tribal and Insular Areas	)	
	)	
Western Wireless Corporation,	)	
Crow Reservation in Montana	)	CC Docket No. 96-45
	)	
Smith Bagley, Inc.	)	
	)	
Cheyenne River Sioux Tribe Telephone	)	
Authority Western Wireless Corporation,	)	
Wyoming	)	
	)	
Cellco Partnership d/b/a Bell Atlantic	)	
Mobile, Inc.	)	
	)	
Petitions for Designation as	)	
an Eligible Telecommunications Carrier	)	
and for Related Waivers to Provide	)	
Universal Service	)	

**FLORIDA PUBLIC SERVICE COMMISSION COMMENTS  
ON FURTHER NOTICE OF PROPOSED RULEMAKING**

On June 30, 2000, the Federal Communications Commission (FCC) released its Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking. In the Further Notice of Proposed Rulemaking (FNPRM), the FCC seeks comment on a proposal that would impose deadlines on processing of petitions for designation as an eligible telecommunications carrier (ETC) by either a state commission or by the FCC. The Florida Public Service Commission (FPSC) respectfully submits its comments on the subject matter contained in this FNPRM.

The FCC seeks comment on whether it should promulgate a rule that requires that a request for designation as an ETC under

section 214(e) of the Telecommunications Act of 1996 must be resolved within six months. Since 214(e) pertains to designation duties of both state commissions (under 214(e)(2)) and the FCC (under 214(e)(6)), this proposed six-month requirement would be imposed on both state commissions and the FCC. Moreover, the FCC seeks comment on whether it has the authority to enforce such a requirement on state commissions.

We acknowledge the FCC's concerns that extended delays in processing requests for ETC designation might hamper the availability of affordable services in high-cost areas, and could impede the ability of alternative local providers to compete with incumbent local providers in high-cost areas, due to unavailability of universal service support. We agree that petitions for ETC designation should be handled in a timely manner. Nevertheless, for several reasons, the FPSC recommends that the FCC not attempt to impose procedural deadlines on state commissions.

First, it is unclear whether there have been consistent delays in handling requests by state commissions for ETC designation. Other than the handful of unique cases addressed by the FCC in the Twelfth Report and Order, no evidence has been presented that a problem exists. We can assure you that no delays have occurred in Florida.

Second, Florida, like most state commissions, operates under due process procedural requirements and guidelines that are embodied in state law. In contested agency proceedings that lead

Florida Public Service Commission Comment  
cc Docket No. 96-45

to formal evidentiary hearings, it is virtually impossible to resolve a matter within the FCC's six month target. We suspect most states would be in a similar position.

Third, consistent with the finding of the FCC in the Twelfth Report and Order, section 214(e)(2) affords a state commission primary responsibility for designating ETCs within its state. Since the federal statute provides authority to the states to designate ETCs, we believe the FCC has no express authority to impose procedural requirements on the states. We believe it is highly unlikely that Congress intended to reserve to the FCC the authority to dictate to the states how to conduct any required proceedings to perform such designations.

In conclusion, the FPSC recommends that such a requirement should not be imposed on state commissions.

Respectfully submitted,

Cynthia B. Miller, Esquire  
Bureau of Intergovernmental Liaison

FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
(850) 413-6082

DATED: August 4, 2000

### **Certificate of Service**

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments of the Florida Public Service Commission will be furnished to the parties on the attached list.

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Cynthia B. Miller, Esq.  
Bureau of Intergovernmental Liaison

DATED: August 4, 2000